

This letter concerns Certificates of Resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL.)

April 20, 2006

Dear Xxxxx:

This letter is in response to your letter dated September 29, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am requesting an official ruling regarding a sales tax issue our company is having. The issue is concerning the certificate of resale CRT-61 form. We are confused because the rules on your website, the forms terminology and an IL State Auditor's explanation all conflict and we wish to make sure we are compliant with your tax laws and that we have official documentation to provide our customer, your Auditor, or both depending on which one is mistaken. I contacted the Tax department via e-mail on this issue and they referred me to you.

We were currently audited by your state. In this audit we discovered that we did not always collect the proper documentation when dealing with exempt sales. As a response we overhauled our entire customer database and verified that all customers without proper documentation were set up as taxable. Because many of our customers had given us an unacceptable form for resale documentation, according to your Auditor, we now only accept the CRT-61 as proof of resale exemption. If we do not have one the customer is taxable.

During the audit, many CRT-61 forms were rejected as sufficient proof of exemption, by [sic] your auditor, because Step 4 was not filled out or the second check box was checked. I asked the auditor why the forms with the second box checked was not sufficient and was told that since only a percentage of the sales are for resale that I must charge tax to my customer. I had previously assumed that if Step 4 had been filled out that this was considered a blanket certificate, that I should not collect tax on

any sales and that my customer was responsible to remit any applicable tax. The auditor explained that this is not the case. That additional documentation would be required, like a PO, stating that each purchase in question was indeed exempt. This seemed contradictory to me for two reasons. The first is that no where, on your department's website [sic] can I find anything stating that additional information is required on a blanket certificate, where the percentage of purchases for resale is less than 100. All I can find mentioning the blanket certificate is Title 86 Part 130 Section 130.1405. This only states that if a purchaser knows that a certain percentage is for resale, we can accept a blanket certificate of resale stating that percentage. The second reason this seemed incorrect is that if I require additional proof for each purchase what good would collecting a CRT-61 in the first place.

After changing all of our customers in our database, that we did not have a CRT-61 for, back to taxable our customer ABC was charged tax and called us asking why. When they did I responded to them stating that I do not have a correct exemption certificate on file and can not remove the tax without one. They sent me the enclosed CRT-61 that appeared, to me, to be correct. However, due to the auditor's suggestion I asked ABC for additional information, because they had filled in that only 25% of their purchases are for resale. This offended my customer, they explained to me that the CRT-61 form that I received should be sufficient and demanded that I remove the tax.

At this point I sent the e-mail to the department and was referred to you. I also called the auditor, even though our audit is done, to see what I should do if they refuse to pay the tax. She said to leave it on the account, or charge a different tax rate, 5.8125% (IL state and Cook County Tax multiplied by the 75% of non-resale purchases. This did not seem right at all, so I decided to get the official answer.

If a customer fills out a completed CRT-61, with our Company's Name, Our Company's address, Their Name, Their Address, Their IBT#, a description of the property being purchased, signature and date, and fills in that only a percentage of the purchases are for resale, what tax, if any, am I required to collect on sales to the customer?

I would appreciate an answer as soon as you can. I have an irate customer that is awaiting this ruling. They will not give me additional information without this official ruling and I will need a ruling from you to remove it without penalty in a future audit.

Thanks for your prompt response.

DEPARTMENT'S RESPONSE:

In order for a Certificate of Resale to be valid in Illinois, it must contain the items of information set out in 86 Ill. Adm. Code 130.1405(b). You have inquired about a blanket certificate of resale.

The Certificate of Resale submitted with your request indicates the purchaser certifies that 25% of all purchases he or she makes from you are for resale purposes. In general, this means that as a retailer, you are obligated to collect tax from this purchaser at the full rate (6.25% plus any applicable local occupation tax, if any) on 75% of the entire purchase price. If a retailer accepts a properly executed Certificate of Resale which claims that a certain percentage of the purchaser's purchases from that retailer are exempt as purchases for resale, that retailer is not required to verify that the claimed percentage is actually being purchased for resale. Please note, it is only when a

purchaser checks the box indicating that all of his or her purchases are for resale, that you are not required to collect any tax.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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